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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,984	05/23/2000	Daniel H. Macs	2870/287	1797

7590 10/31/2003

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EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 10/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/554,984

Applicant(s)

MAES ET AL.

Examiner

Alton N. Pryor

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 2-4, 6-13, 15-26 and 28-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 2, 3, 6--8, 10, 15-17, 20, 23, 26, 28-30, 32-36 is/are rejected.
- 7) ☐ Claim(s) 4, 9, 11-13, 18, 19, 21, 22, 24, 25 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15,28-30,32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al (US 5932234; 8/3/99). Simon teaches a composition for skin application comprising a number of actives. The actives include compounds such as Asiatic acid (protease inhibitor) and dihydroxyacetone (tanning agent) and vitamin D derivative (cell differentiation enhancer). See column 5 line 49 – column 6 line 38. Simon does not exemplify an invention comprising all three compounds. However, it would have been obvious to one having ordinary skill in the art to make such an invention. One would have been motivated to do this since Simon suggests the combination.

Claims 2,3,6-8,16,17,20,23,26,33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al as applied to claims 15,28-30,32 above, and further in view of Subbiah (US 6150381; 11/21/00). See Simon's 35 USC 103(a) rejection above. Simon teaches all that is recited by claims 2,3,6-8,16,17,20,23,26,33-36 except for the invention comprising sclareolide and instant amounts of ingredients. However, Subbiah teaches a composition for skin application comprising sclareolide. See column 3 line 20 – column 4 line 65. It would have been obvious to one having

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ordinary skill in the art to modify the invention of Simon to include sclareolide. One would have been motivated to do this since both inventions are applied topically to treat dermal disorders.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al as applied to claims 15,28-30 above, and further in view of Elias et al (US 5885565; 3/23/99). See Simon's 35 USC 103(a) rejection above. Simon teaches all that is recited by claim 10 except for the invention comprising cholesterol. However, Elias teaches a composition for skin application comprising cholesterol sulfate. See claim 1. It would have been obvious to one having ordinary skill in the art to modify the invention of Simon to include cholesterol sulfate. One would have been motivated to do this since both inventions are applied topically to treat dermal disorders.

Claim Objection

Claims 4,9,11-13,18,19,21,22,24,25,31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or suggest the invention comprising the limitations of the objected claims.

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 703 308-4691. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 703-308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.


Alton Pryor
Primary Examiner
AU 1616

ALTON N. PRYOR
PRIMARY EXAMINER